

Message Text

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ACTION EB-11

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TO SECSTATE WASHDC 3793
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E.O. 11652: N/A
TAGS: ETRN, NL
SUBJECT: CIVAIR- NETHERLANDS CHARTER REGULATIONS

REF: STATE 50448

SUMMARY: GON PLANS TO REDUCE 90-DAY PASSENGER PRE-LIST RULE FOR ABC FLIGHTS TO 60 DAYS, PARALLEL WITH NEIGHBORING COUNTRIES, AND HAS PROVISIONALLY AUTHORIZED CARRIERS TO OPERATE UNDER 60-DAY RULE. GON ALSO PLANS PRE-LISTING REQUIREMENT FOR AFFINITY CHARTERS BUT WILL ALLOW LATE ADDITIONS. IT OPPOSES LATE SUBSTITUTION WITH UNLISTED PASSENGERS ON TGC FLIGHTS. EMBASSY SUGGESTS AMENDMENT OF ADVANCE CHARTER AGREEMENT TO PRECLUDE FURTHER UNILATERAL REDUCTION OF PRE-LISTING REQUIREMENT.

1. ADRIANI OF CIVILAIR INFORMED US THIS WEEK THAT CIVILAIR NAD NOTIFIED CARRIERS BY LETTER JUNE 5 THAT PASSENGER LISTING REQUIREMENT FOR ABC CHARTERS HAD BEEN REDUCED FROM 90 TO 60 DAYS. IN ENSUING CONVERSATION WITH ADRIANI AND LARIVE JUNE 13 WE WERE TOLD THIS ACTION WAS CONSIDERED NECESSARY FOR

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COMPETITIVE REASONS BECAUSE SAME CHANGE IN REGULATIONS HAS BEEN

MADE BY UK, FRANCE, BELGIUM AND FRG, AND AIRLINES OF ALL THESE COUNTRIES ARE OFFERING 60-DAY FACILITY. NOTIFICATION TO CARRIERS ANTICIPATES AMENDMENT OF ABC REGULATIONS WHICH IS UNDER CONSIDERATION. CIVILAIR OFFICIALS STRESSED THAT 60-DAY REQUIREMENT IS ORDER OF THE DAY IN EUROPE AND FOR COMPETITITIVE REASONS CANNOT BE IGNORED. IN FACT ABC NETH-US FLIGHTS HAVE ALREADY BEEN OFFERED WITH 60-DAY RESERVATION DEADLINE, BUT NO SUCH FLIGHT HAS BEEN OPERATED AS YET. CIVILAIR CONSIDERED IT NECESSARY TO ADVISE USG OF NOTIFICATION TO CARRIERS IN ORDER TO COVER LATTER VIS-A-VIS US AUTHORITIES IN CASE FLIGHTS WERE MADE UNDER 60DAY AUTHORITY PRIOR TO AMENDMENT OF REGULATION.

2. IN DISCUSSION WE REITERATED US POSITION THAT CHANGE OF ABC RULE FROM 90 TO 60 DAYS IS SUBSTANTIAL ALTERATION WHICH NECESSITATES AMENDMENT OF BILATERAL AGREEMENT (PARA A REFTEL). IN RESPONSE THEY POINTED OUT THAT TERMS OF AGREEMENT PROVIDE FOR RECOGNITION OF CHARTERWORTHINESS OF ABC TRAFFIC WHICH CONFORMS TO ADVANCE CHARTER RULES OF COUNTRY OF ORIGIN; AGREEMENT ALSO DEFINES ABC RULES AS THOSE PROMULGATED BY GON AUTHORITIES, INCLUDING AMENDMENTS THERETO (SEE PARA 1 AND FOOTNOTE 2 OF MEMORANDUM OF UNDERSTANDING). THESE LED THEM TO CONCLUDE THAT CHANGE OF RULE AS DESCRIBED WAS GON PROVOCATIVE UNDER TERMS OF AGREEMENT. THEY FURTHER CITED CAB NOTICE OF PROPOSED RULE MAKING ON TGC'S CHANGING PASSENGER LIST REQUIREMENT FROM 90 TO 60 DAYS AS INDICATION THAT THERE COULD BE NO SUBSTANTIVE OBJECTION TO THEIR PROPOSED RULE CHANGE. THEREFORE, IN VIEW OF COMPETITION FOR TRAFFIC MOUNTED IN NEIGHBORING COUNTRIES, THEY HAVE INITIATED AMENDMENT OF REGS AND HAVE GIVEN ABOVE NOTICE TO CARRIERS AS PROVISIONAL SOLUTION OF COMPETITION PROBLEM PENDING AMENDMENT.

3. CIVILAIR ALSO GAVE US THEIR LATEST THINKING RE AFFINITY CHARTERS, WHICH DOES NOT DIFFER SUBSTANTIALLY FROM THAT REPORTED IN HAGUE 1084. THEY STILL ENVISAGE POWER TO INSTITUTE 30-DAY PRE-LISTING RULE AT THEIR DISCRETION ON NON-DISCRIMINATORY BASIS. HOWEVER, IN REPLY TO OUR COMMENT THEY SAID THAT THEY WOULD PLAN TO ALLOW LATE ADDITIONS, AS WELL AS SUBSTITUTIONS, FROM BONA FIDE MEMBERSHIP.

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4. WHILE EXPRESSING FULL AGREEMENT WITH CAB NRPM AS FAR AS 60-DAY RULE IS CONCERNED, ADRIANI TOOK STRONG EXCEPTION TO ALLOWING LATE SUBSTITUTION WITH UNLISTED PASSENGERS ON TGC FLIGHTS. HE HELD THAT THIS IS MUCH MORE IMPORTANT ALTERATION OF CHARACTER OF ADVANCE CHARTERS THAN IS 60-DAY RULE WHICH IS GENERALLY ACCEPTED.

5. COMMENT: ON BASIS THAT USG HAS AGREED ON 60DAY RULE

WITH OTHER COUNTRIES AND IS CONSIDERING IT FOR TGC TRAFFIC,
AND THAT GON PLANS MAINTAIN AFFINITY RULE THROUGH NEXT YEAR,
WE ASSUME THAT DEPT/CAB HAS NO BASIC OBJECTION TO 60-DAY
RULE FOR NETH-US ADVANCE CHARTER TRAFFIC. WE SEE VALUE,
HOWEVER, IN FORMALIZING AGREEMENT ON THIS RULE SO AS TO
PRECLUDE FURTHER UNILATERAL REDUCTIONS OF PRE-LISTING
REQUIREMENT WITH WHICH USG MAY NOT AGREE. WE THEREFORE
SUGGEST CONSIDERATION OF PROPOSING AMENDMENT OF AGREEMENT
OF JULY 11, 1973 SPECIFICALLY PROVIDING FOR 60-DAY RULE AND
MAKING ANY FURTHER CHANGE SUBJECT TO NEGOTIATION.

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